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In re Application of
VOLLOCH et al.
Application No.: 09/936,879
PCT No.: PCT/US00/07350
Int. Filing Date: 17 March 2000
Priority Date: 18 March 1999
Attorney Docket No.: A32367-PCT USA
For: SCREENING METHODS FOR COMPOUNDS
USEFUL IN THE REGULATION OF CELL
PROLIFERATION

DECISION ON
PETITION UNDER
37 CFR 1.137(b)

This decision is in response to applicant's "RENEWED PETITION UNDER 37 CFR 1.137(b)" filed 15 August 2003 and to applicant's "SUPPLEMENTAL RENEWED PETITION UNDER 37 CFR 1.137(b)" filed via facsimile transmission on 01 October 2003. A two-month extension of time fee has been charged to Deposit Account No. 02-4377.

BACKGROUND

On 17 March 2000, applicant filed international application PCT/US00/07350, which designated the United States and claimed a priority date of 18 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 September 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 September 2000, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 18 September 2001.

On 18 September 2001, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 25 October 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 indicating, *inter alia*, that an oath or declaration of inventors and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

The Notification set a two month extendable period for response.

On 03 December 2002, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT indicating that the application was abandoned as to the United States for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 25 October 2001.

On 08 January 2003, applicants submitted a "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" which was accompanied by, *inter alia*, a declaration of inventors and the surcharge under 37 CFR 1.492(e).

On 12 June 2003, the USPTO mailed a decision dismissing applicant's petition under 37 CFR 1.137(b). Specifically, it was noted that the required reply--a declaration of inventors in compliance with 37 CFR 1.497(a)-(b)--had not been submitted.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), the declaration of inventors filed 15 August 2003 and the declaration of inventors filed via facsimile transmission on 01 October 2003 are in compliance with 37 CFR 1.497(a)-(b).

As to item (2), applicant submitted the petition fee for a small entity on 08 January 2003.

As to item (3), the required statement has been provided.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including according the application a 35 U.S.C. 371(c) date of 01 October 2003.



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